

Apr 14, 2021

SEAN F. MCAVOY, CLERK

AUSA Assigned: MJE

County of Investigation: Adams

*In Re: Affidavit in Support of Complaint charging Felipe TAPIA-PEREZ with
Unlawful Alien in Possession of a Firearm in violation of Title 18, United States
Code, Section 922(g)(5)(A)*

STATE OF WASHINGTON)
 :SS
County of Spokane)

I, James Butler, being first duly sworn on oath, deposes and states as follows:

I. INTRODUCTION

1. I have been employed as a Special Agent for the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) since September 2013. I am currently assigned to the Spokane Field Office, Seattle Field Division. As an ATF Agent, my duties include, but are not limited to, the investigation of violations of Federal firearm and explosive laws. I am a graduate of the Federal Law Enforcement Training Center, Criminal Investigator Training Program, as well as the ATF Special Agent Basic Training. These courses of study totaled approximately 27 weeks of law enforcement training. I attended ATF Advanced Investigations Training, ATF Crime Gun Intelligence training, Interstate Nexus training, among other trainings. I hold a Bachelor of Science in Business Administration, with an emphasis in International Business.

2. As a Special Agent with ATF, I am familiar with Federal criminal laws pertaining to firearms violations and the means by which persons engage in criminal activity involving firearms. In connection with my official duties, I regularly investigate criminal violations of State and Federal firearm laws. I have received special training in the enforcement of laws concerning firearms and explosives. I have testified in judicial proceedings and prosecutions for violations of Federal firearm laws. I am familiar with the ways in which individuals illegally traffic firearms, their methods of acquiring, storing, and disposing of those firearms, and their use of wire and electronic communications in furtherance of their criminal acts. Your Affiant is familiar with and has participated in various methods of investigation, including but not limited to, physical surveillance, the use of informants, T-3 communications intercepts, debriefing of witnesses, informants, and others, who have knowledge of the acquisition, distribution, transportation, and use of firearms. I am aware that individuals, who illegally possess firearms, will oftentimes do so in the presence of other individuals or co-conspirators. I am also aware that individuals who illegally possess firearms may also attempt to conceal their possession of firearms, may maintain custody of firearms, and may sell/trade firearms in order to avoid detection by law enforcement.

3. Based upon my training and experience, I am aware that Title 18 United States Code section 922(g)(5) states “It shall be unlawful for any person . . . who,

being an alien (A) is illegally or unlawfully in the United States; or (B) except as provided in subsection (y)(2), has been admitted to the United States under a nonimmigrant visa (as that term is defined in section 101(a)(26) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(26))) . . . to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.”

4. This affidavit is being submitted in support of a criminal complaint charging Felipe TAPIA-PEREZ with Unlawful Alien in Possession of a Firearm, in violation of Title 18, United States Code, Section 922(g)(5)(A).

5. The facts in this affidavit come from my personal observations, my training and experience, and information obtained from other agents, law enforcement officers, and witnesses. This affidavit does not contain all of the information known to me or to law enforcement regarding this investigation, but rather contains only those facts believed to be necessary to support the criminal complaint.

II. STATEMENT OF PROBABLE CAUSE

6. I reviewed a Statement of Arresting Officer and Preliminary Finding of Probable Cause for the Superior Court of Washington for Adams County related to Othello Police Department (OPD) incident number 21-O00546 and learned that on

February 27, 2021, OPD responded to the Othello Community Hospital due to a young child with a gunshot wound to the head.

7. On February 27, 2021, OPD Detective J. Mendoza contacted TAPIA-PEREZ, the father of the child with the gunshot wound to the head, at the Othello Community Hospital (OCH). Detective Mendoza conducted multiple consensual recorded interviews with TAPIA-PEREZ throughout the remainder of the day at both OCH and at OPD. During these interviews, TAPIA-PEREZ provided the following statements:

- a. He was born in Mexico and came into the U.S. at the age of five years old.
- b. He was not a U.S. Citizen.
- c. He knew he was unable to legally possess firearms.
- d. He had an active protection order prohibiting him from having communication or going near Perla Arteaga-Ochoa, the child's mother.
- e. He was arrested for a domestic violence assault on January 9, 2021.
- f. His vehicle, a 2009 Chevrolet Aveo bearing Washington license plate BQN2459, was registered to Zaida Miranda-Tapia even though he purchased the vehicle with cash.
- g. He had a bad driving history and could not find an insurance company to insure his vehicle.

- h. He currently wore an electronic home monitoring device on his ankle.
- i. He stated he purchased a .22 caliber Colt handgun the day before while in Moses Lake, Washington.
- j. He said an unknown man approached his vehicle, that was parked somewhere in Moses Lake, and asked him if he wished to purchase a firearm.
- k. He stated he did not ask how the unknown man came into possession of the firearm.
- l. He said he purchased the firearm from the unknown man because he liked the firearm and the price requested by the unknown man was cheap.
- m. He explained that while waiting to pick up his children from Arteaga-Ochoa's residence, located at 335 East Hamlet Street, Othello, Washington, he inadvertently fired the firearm causing the bullet to go through his passenger window and strike his son in the head.
- n. He stated that Arteaga-Ochoa came over and the pair transported their son to the hospital.
- 8. OPD officers searched TAPIA-PEREZ's vehicle and the area where the shooting occurred, pursuant to a District Court search warrant.

Inside of TAPIA-PEREZ's vehicle, OPD officers located, among other items, the following:

- o. A Colt model Woodman, .22 caliber pistol bearing serial number 095545S, on the front passenger seat.
- p. A black magazine loaded with approximately (8) to (10) .22 caliber rounds of ammunition in the center console of the vehicle.

9. I spoke with United States Border Patrol Agent Seth Justesen regarding the immigration status of TAPIA-PEREZ. Agent Justesen stated he found no information that showed TAPIA-PEREZ entered the United States lawfully. Agent Justesen did not find any previous documented removals of TAPIA-PEREZ. Based upon the admissions provided by TAPIA-PEREZ that he was born in Mexico and not a citizen of the United States with the information provided by Agent Justesen, I believe TAPIA-PEREZ to be an alien unlawfully in the United States.

10. I am an Interstate Nexus Expert for the Bureau of Alcohol, Tobacco, Firearms and Explosives. Through my training, experience, and research, I determined the Colt model Woodsman pistol recovered by Othello Police Department was manufactured outside the state of Washington. I also reviewed ATF Firearms Trace number T20210090590, which identified that Colt's Manufacturing Company LLC manufactured this firearm in Connecticut and then transferred the firearm to

Harper and McIntire Company located in Iowa. This firearm has traveled in and/or affected interstate commerce.

III. CONCLUSION

11. Based on the foregoing facts, I believe probable cause exists for the issuance of a Criminal Complaint charging Felipe TAPIA-PEREZ with Unlawful Alien in Possession of a Firearm, in violation of Title 18, United States Code, Section 922(g)(5)(A).

**JAMES
BUTLER**

Digitally signed by
JAMES BUTLER
Date: 2021.04.14 13:41:
-07'00'

James Butler, Special Agent
Bureau of Alcohol, Tobacco, Firearms and
Explosives

SUBSCRIBED AND SWORN to telephonically and SIGNED electronically
this 14th day of April, 2021.



John T. Rodgers
United States Magistrate Judge

